

MINUTES

**McDowell Sonoran Preserve Commission
1st Floor Community Development Conference Room
Thursday, April 3, 2003
5:00 P.M.**

CALL TO ORDER

Vice-Chair, Commissioner Carla called the meeting to order at 5:02 p.m., noting the presence of a quorum.

ATTENDANCE

Present: Darren Smith, Chairman
Virginia Korte
Carla
Bill Berkley
Denny Carr
Les Conklin
Howard Myers
Jane Rau
Don Ruff
Solange Whitehead

Staff: Bob Cafarella
Claire Miller
Don Meserve
Scott Gray

Visitors: Steve Gross
Jeff Holliday

APPROVAL OF MINUTES

Commissioner Carla stated that the March 6, 2003 meeting minutes had not been distributed prior to the meeting and suggested postponing approval until the next meeting to allow time for Commissioner review.

OVERFLIGHTS OVER THE MCDOWELL SONORAN PRESERVE.

Scottsdale Airport Director Scott Gray addressed the Commission and reviewed the noise and abatement procedures provided to pilots and transient pilots flying out of Scottsdale airport. He stated that the Preserve does not qualify as a wilderness area according to FAA guidelines. Under those guidelines, a wilderness area is defined as an area managed or owned by a Federal agency. He went on to explain the altitude restrictions, noting that a 2000-foot overflight altitude over a wilderness area was a recommendation not a mandate. Commissioner Berkley inquired as to the

difference in regulations between fixed wing and helicopters. Mr. Gray replied that fixed-wing aircraft were required to fly at least 1,000 feet over urban areas, and 500 feet over rural areas. He indicated that the Preserve was classified as rural. He noted that the only requirement governing helicopters is that they must operate safely.

Mr. Gray advised the Commission that the City has no tracking system at the present time, but has submitted a request to City Council for a tracking system that operates without the use of radar. He added that this type of tracking system would be superior to radar reliant systems.

Commissioner Carla voiced concerns as to helicopter landings in the Preserve, and small fixed-wing aircraft buzzing Windgate Pass. Mr. Gray replied that identifying the helicopters was difficult and that it was possible that aircraft from Falcon Field and Chandler, not just those from Scottsdale Airport, were landing in the Preserve. He stated that a City ordinance prohibiting any landing on City property could be a possible solution. Mr. Cafarella noted that there was already an ordinance prohibiting motorized vehicles in the Preserve except in cases of emergency.

Mr. Gray went on to explain that fixed wing aircraft are in compliance with FAA regulations as long as they stay 500 feet above the ground. In the event it could be proven that a plane was flying below 500 feet, the pilot could be turned into the FAA Flight Standards District office for action if warranted.

In response to questions by Commissioner Myers, Mr. Gray explained the FAA definitions for rural and urban, and that there are recommended noise abatement arrival and departure routes. He stressed that, once the aircraft departs the runway, it is no longer within the City of Scottsdale's jurisdiction. He added that traffic pattern altitudes have remained the same since the airport opened in 1967.

There was discussion relative to Northwest 2000, and Commissioner Carla expressed concerns regarding the impact on flights over the Preserve in the event of a favorable ruling for the Quiet Skies group and the Spur Cross area.

Mr. Gray stated that the complaints for low-flying aircraft are supposed to go directly to the FAA, but that the FAA has no way of verifying altitude. He commented that approval by City Council of the new tracking system would do much to ameliorate this problem.

HIDDEN HILLS ACCESS AREAS UPDATE.

Mr. Cafarella explained that this is the first access area to have amenities installed. He added that the project was in partnership with the Parks, Recreation and Facilities Division of the Community Services Department and was funded in this year's capital budget. He noted that Heritage funds and some Game and Fish funds were being used to build a ramada. He stated that two or three of the neighboring landowners are opposing the access area closest to the mountains. He stated that they are not open to any compromise and are scheduled to address City Council with their arguments.

Commissioner Carla strongly recommended that all of the Commissioners attend the May 19 Council meeting as a show of support for the access plan. She noted that any delay could result in

a loss of the Heritage funds. Commissioner Meyers requested staff to provide the Commissioners with all available facts prior to the Council meeting.

REVIEW GEOCACHING INFORMATION

Ms. Miller summarized that the Commission had previously given direction that they did not want to reopen the geocaching issue. Subsequently, a request to give a presentation with some potentially new information was made by Steve Gross. Chairman Smith noted that the Commission usually does not readdress issues, and asked the Commissioners if they saw any new information in Mr. Gross' handout that justified reopening the issue.

Commissioner Carla stated that Mr. Gross had done a thorough job in stating his case, but that he still could not justify putting something in the Preserve which is, in fact, against the ordinance. Commissioner Myers observed that Mr. Gross' argument hinged on the issuance of a permit for geocaching activities, but countered that the permits were for specific uses, such as surveys, not recreational use. Mr. Gross responded that the issuance of a permit would eliminate the litter issue. He quoted a section of the ordinance giving the Preserve Director discretion to issue permits for activities that would otherwise be prohibited. He noted that off-trail use was one of the activities listed. Discussion ensued.

Commissioner Carla expressed concern as to enforcement of geocaching activities and stated that the only way to adequately protect the Preserve was to have a blanket rule of no geocaching. Commissioner Myers concurred and stated that it was important for the Commission to remain consistent in its policy regarding off-trail activity. He commented that if one group were allowed this use, it would be very difficult to restrict other groups. Commissioner Berkley observed that the Preserve is not a park and that approval of the geocaching activities could imply that it was acceptable to wander around off-trail and could encourage activities detrimental to the Preserve.

After further discussion, it was the consensus of the Commissioners that there was no compelling argument to bring the issue back for any further discussion.

DIRECTOR'S REPORT

Mr. Cafarella discussed the Glen Alden condemnation decision and noted that the City would be submitting a request to the judge who heard the case to reduce the award. He noted that the jury was correct in its decision regarding the value of the land, but erred in terms of the lot premiums, as they did not take the impact of the high-tension wires into consideration. Secondly, he stated that the City would be appealing the decision based on several items, one relating to evidence and the time constraints imposed by the judge on the length of the trial, and the other relating to admission of evidence. Mr. Cafarella remarked that these steps could potentially lead to a new trial.

Commissioner Myers noted that this served as a landmark case relative to future State land issues.

Mr. Cafarella went on to review the Toll Brothers discussions. He stated that staff would discuss the issue in Executive Session with City Council on April 15, noting that the overwhelming issue was the valuation figure.

PRESERVE MANAGER'S REPORT

Ms. Miller advised that presentation of the Heritage Fund check was scheduled for April 18. She noted that future OHB funds have been deleted, and that Heritage funding for future years is now questionable. She stated that the Earth Day Project was scheduled for Saturday, April 26, and involves cleanup of an area in north Scottsdale. Ms. Miller announced that Michael Martin Murphy has expressed interest in possibly doing a benefit concert for trails and preserve use. She noted that Commissioner Carla would be following up on that matter.

Ms. Miller stated that the Trails Plan issues for the Planning Committee were being finalized.

FUTURE EXECUTIVE SESSION

MOTION WAS MADE BY COMMISSIONER RAU TO HOLD AN EXECUTIVE SESSION FOR MAY 1, 2003 FOR THE PURPOSE OF DISCUSSION WITH REPRESENTATIVES OF THE PUBLIC BODY AND CONSULTATION WITH CITY ATTORNEY FOR LEGAL ADVICE TO CONSIDER ITS POSITION AND INSTRUCT ITS REPRESENTATIVES REGARDING NEGOTIATING FOR PURCHASE OR LEASE OF REAL PROPERTY FOR INCLUSION IN THE MCDOWELL SONORAN PRESERVE, ARS38-431.03 (A) (3) AND (A) (7). THE MOTION WAS SECONDED BY COMMISSIONER RUFF AND PASSED UNANIMOUSLY, 10-0.

COMMISSIONER COMMENTS AND PUBLIC COMMENTS

Mr. Gross requested that the Commission post its policy on the website regarding geocaching.

Mr. Cafarella announced that the Joint meeting with the Parks and Recreation Commission would probably take place in June, as the contract discussion for Hidden Hills would not go to City Council until May 19.

Mr. Conklin announced a fundraiser for the Desert Foothills Scenic Drive Adopt-A-Plant Program, and distributed an informational brochure.

There was a brief discussion regarding the Morrison Institute Report and its relevance to the Commission's agenda. Commissioner Korte stated that the report presented the Preserve in a very positive light, and that future public forums and dialogue could be utilized to correct the \$1,000,000,000 figure given in the report as necessary to fund the Preserve.

Being duly moved and seconded, the regular meeting was adjourned at 6:30 p.m.

Respectfully submitted,

"For the Record" Reporters

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